



STATE OF CONNECTICUT

DEPARTMENT OF TRANSPORTATION

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Office of the
Commissioner

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Public Hearing – February 22, 2012 Transportation Committee

Testimony submitted by Commissioner James P. Redeker Department of Transportation

H.B. 5163, AN ACT CONCERNING REVISIONS TO THE DEPARTMENT OF TRANSPORTATION STATUTES. (Department of Transportation proposal)

The Department of Transportation (ConnDOT) supports H.B. 5163, AAC Revisions to the Department of Transportation Statutes to facilitate several process improvement and agency efficiency initiatives within the Department.

Section 1: ConnDOT proposes changes to CGS 13a-80 regarding disposition of excess state property to further agency efficiency. The purpose of the changes is to: 1) clarify the statutory requirement for a public bid for properties that conform to zoning; 2) provide cost saving measures once statutory requirements are met; and 3) increase the threshold for requiring two appraisals for the release of state property.

Current language states "...the department shall obtain a second appraisal if such property is valued over one hundred thousand dollars and is not to be sold through public bid or auction." This would imply that the Department has the means to sell properties without holding a public bid. It is in the best interest of the state and the general public to have all properties that conform to zoning announced for public bid. ConnDOT's current policy reflects this notion and the modified language would ensure transparent transactions via public bids.

CGS 13a-80, as currently written, does not provide a mechanism for the commissioner to continue to market properties for sale when a public bid elicits no bids, other than to have another public bid. Increasing advertising costs, as well as indirect costs such as personnel resources, make selling state property solely through a public bid inefficient. One public bid would be required, as stipulated above. If no bids are received, then the commissioner may continue to market the property for sale and release the property without further public notice. This would save in advertising costs, allow the Department flexibility in developing a sale, and expedite a potential sale by interested buyers after the public bid has occurred.

CGS13a-80 also requires that a second appraisal be obtained for properties over \$100,000 and are not sold by public bid. This would occur for sole abutter sales and for sales to former residential property owners upon which a single-family dwelling was situated at the time it was obtained by the Department for highway purposes if the sale occurs within 25 years of the properties acquisition (13a-80(c)). Presumably, requiring two appraisals for properties valued above a \$100,000 was to ensure "valuable" properties were appraised appropriately. The \$100,000 threshold was established in 1986 with the addition of subsection (b) to the statute. Since the threshold has not been adjusted in 25 years, the Department is proposing an increase to \$250,000. This figure mirrors ConnDOT's threshold for obtaining two appraisals when acquiring property for transportation projects. The increase to \$250,000 will reduce contracting costs to the Department's contracted appraiser and reduce delays in releasing state property.

Section 2: Currently, CGS 15-13 allows the Commissioner to suspend or revoke a Connecticut marine pilot's license for the following four reasons - 1) incompetence, 2) neglect of duty, 3) misconduct, or 4) using a vessel owned or operated by a person who has not obtained proper compliance certification. This proposal adds a fifth reason - the physical inability of a pilot to perform his/her duties – and adds an administrative action to "inactivate" a license for one of the five reasons.

Without this provision, the Commissioner would not have the authority to inactivate the state issued license of a pilot who has medically been found not fit for duty.

Section 3 of the bill will allow licensed Connecticut marine pilots to self-certify their vessels in lieu of a state regulated program. Currently, CGS 15-15e requires pilot boat operators to obtain a certificate of compliance from ConnDOT. To date, the regulations have not been adopted and the Department does not have staff to inspect/certify vessels of any type. Pilot Boat operators are required to obtain surveys conducted by qualified surveyors as part of their respective insurance policies. Changing the burden of the "certification" program is an efficient manner to obtain the goal of safety at sea and protection of the marine environment without burdensome regulations and associated liability.

Other states have positive, safety navigation programs and allow a similar certification to the one the Department is proposing. This proposal was also discussed with the Connecticut Pilot Commission and initiated after discussion with one such licensed CT marine pilot.

*The Department has provided substitute language for this section which clarifies the requirement be for a marine pilot to obtain a certificate of "insurance", not a certificate of "compliance".

Section 4 of the bill would allow ConnDOT to implement a simple permitting system for film companies that seek to film on ConnDOT property or state highway right-of-way.

The State established a program pursuant to CGS 12-217jj, which seeks to encourage the production of digital media and motion pictures in the State of Connecticut in order to enhance the quality of life and economic vitality of Connecticut by supporting the film and media industry and related job creation in the State of Connecticut. In order to expeditiously and efficiently grant permission to film companies that seek to film on ConnDOT property or state highway right-of-way, the ConnDOT seeks to implement a permitting system for filming, rather than rely on existing statutes that historically are used to convey an interest in real property, requiring additional approvals, such as from the State Properties Review Board (SPRB).

Filming companies require flexible scheduling and prompt approval of their requests, which is not often possible with the current agreement process and review (e.g., SPRB) process. A permitting system, as opposed to a traditional agreement process, will be more efficient and attract the film industry to the state and improve the Department's ability to deliver services considerably. State resources will be saved as agreement preparation and processing will be eliminated.

All protections to the State will be built into the permit, with insurance requirements being set on a case-by-case basis, by ConnDOT in consultation with the State's Director of Insurance and Risk Management (DAS-Insurance and Risk Management Board), based upon the complexity of the filming request.

Section 5 would assist the Department in bringing utility services to new or existing ConnDOT facilities. The proposal would allow the Department to grant easements to public service companies in connection with bringing utility service to a ConnDOT facility, similar to the authority in CGS 4b-22a for the Department of Construction Services (formerly the Department of Public Works) to grant easements to public service companies.

When the Department renovates existing or constructs new facilities to support its operations, including, but not limited to, its highway maintenance operations, in many instances the most efficient and economical means of

providing utility service to the facility is to connect to a public utility. While installations in the State highway right-of-way are addressed in CGS 13a-126, installations in or on ConnDOT property are not.

In some instances of bringing new utility service to ConnDOT property, the public utility company has to install facilities such as pipes, valves, meters, regulators, compressors, fixtures, metering devices and any other apparatus and appurtenances needed to provide utility service, in or on State property, and in instances when substantial installation is required, will not do so without obtaining a permanent property right for its facilities to be placed on and remain on State property. The Department is seeking the equivalent authority that the Department of Construction Services has, pursuant to CGS 4b-22a, to grant easements.

Section 6: CGS 13b-251 (2) requires overhead clearance for any structure crossing any railroad tracks on which trains are operated that are attached to or powered by means of overhead electrical wires to be 22'- 6". Section 6 of the bill authorizes the Commissioner of Transportation to construct a new access road with a 4 lane vehicular bridge over Metro-North Railroad that provides an overhead clearance that is less than the required minimum 22'6" by four inches. The new bridge, owned by the town of Fairfield, is 1300 feet west of Black Rock Turnpike and provides an overhead clearance of 22'2".

As part of the development of the new Fairfield Metro Railroad station, a new access road, with a four lane vehicle bridge over Metro-North Railroad, 1300 feet west of Black Rock Turnpike was necessary. The design of this bridge was constrained by a number of factors that included: a jacked drainage system under the tracks east of the bridge; geometry of the access road to the station parking and limited distances to overhead Metro-North feeder wires.

CGS 13b-251 further requires any legislative exemption from this minimum clearance be accompanied by documentation from the Department assessing the impacts and cost of achieving the minimum clearance. *Documentation is attached that determines, as part of the design phase, that it is not desirable to achieve an even greater clearance on this bridge because of geometric and economic constraints.*

Please note: This bridge has already been constructed. In years past, we have sought this exemption prior to construction.

Sections 7-12 repeal the requirement for the Department to publish and submit a Master Transportation Plan (MTP) to the Governor by January 31 in every odd-numbered year. The Department proposes this change to eliminate a duplication of efforts.

The MTP is required by state statute, prepared by ConnDOT every 2 years and dates back to 1969 legislation. It was originally intended as a comprehensive planning document with a 10-year planning horizon; its role has been largely duplicated or replaced by the other three documents. Most notably, in 1991, the federal government enacted legislation requiring every state to prepare a Long-Range Transportation Plan with a 20-year planning horizon. This federally mandated plan now largely replaces the long-range comprehensive planning function of the MTP. The Five-Year Capital Plan, which was first published in 2010, now provides detailed project-specific costs and schedule information that the MTP used to provide.

Federal laws and regulations also require state transportation agencies to prepare and update every two years, a Statewide Transportation Improvement Program (STIP) as a condition for obtaining federal authorization to spend federal transportation funds on projects. The STIP is a four-year financial document which lists all projects in the state that are expected to be funded in those four years with federal funds. It also lists all regionally significant projects, regardless of funding source, which will be undertaken within the state that could affect air quality. It is the means by which the goals and objectives identified in the state and regional long-range transportation plans are implemented. In light of the economic uncertainties at the state and federal levels, it is not feasible to indicate project priorities by need and fiscal capability beyond a four-year period.

It is proposed that that CGS 13b-15, which requires the Department to develop a master transportation plan, be eliminated because the information presented in this plan is included in either the federally mandated, statewide long-range transportation plan or could be included in the Department's annual Capital Plan. The Capital Plan could be expanded to include project data for all the modes of transportation for which the Department is responsible.

For further information or questions, please contact Pam Sucato, Legislative Program Manager for ConnDOT at (860) 594-3013 or pamela.sucato@ct.gov.

SUBSTITUTE LANGUAGE – SECTION 3 OF H.B. 5163

Sec. 3. Sec. 15-15e. Owners or operators of certain pilot boats to obtain certificate of [compliance] insurance.

Penalty. (a)[On and after October 1, 1997, no owner] Owners or operators of a vessel [may] used to transport or offer to transport a pilot licensed under the provisions of section 15-13 for the purpose of embarking or disembarking another vessel in open and unprotected waters [unless such owner or operator has] shall [obtained] obtain a certificate of [compliance] insurance from [the Commissioner of Transportation.] an insurance carrier based on a survey conducted and documented by a qualified marine surveyor. Marine surveyors will be guided by applicable U.S. Coast Guard regulations if any and standards set by insurance companies for the insurability of the vessel. [On and after October 1, 1997, the Commissioner of Transportation shall issue a certificate of compliance to each owner or operator of a vessel used to transport a licensed pilot for the purpose of embarking or disembarking another vessel in open and unprotected waters who complies with the requirements specified in regulations which shall be adopted by the commissioner in accordance with the provisions of chapter 54. The regulations shall specify (1) standards and procedures for the issuance and renewal of such certificate; (2) grounds for the suspension of such certificate; (3) requirements relative to the inspection of such vessels, including the designation and qualifications of inspectors of such vessels and the maintenance and inspection of logs in each such vessel; (4) the procedures for embarkation and disembarkation of pilots; and (5) the operation of and equipment required on each such vessel. Such regulations may establish standard rates for the use of each such vessel for such purpose. For the purposes of this subsection, "open and unprotected waters" means waters located east of the area depicted on the National Oceanic and Atmospheric Administration charts of the eastern portion of Long Island Sound as "The Race".]

(b) Any person who [violates any provision of] fails to comply with subsection (a) of this section or any regulation adopted thereunder shall be fined not less than [sixty] five hundred dollars nor more than [two hundred fifty] one thousand dollars [for each such violation].

METRO CENTER ACCESS ROAD OVER THE METRO-NORTH RAILROAD IN FAIRFIELD

Rationale for exemption from CGS 13b-251

This section of the code provides the following requirements to permit additional bridges to become exempt: *Any proposed legislation which grants an exemption from the minimum overhead clearance requirements in subsection (a) of this section shall be accompanied by a written statement from the Department of Transportation which shall include the following information: (1) The impacts associated with raising the bridge to meet the clearance requirements; (2) the estimated cost of raising the bridge to meet the clearance requirements; and (3) an assessment, including the estimated cost, of the feasibility of increasing the clearance by undercutting at least one track of the railroad or by a combination of undercutting and raising the bridge to meet the clearance requirements.*

- 1) The design of the bridge was constrained by numerous factors that included: a jacked drainage system under the tracks in the vicinity of bridge that precluded lowering railroad track elevation; geometry of the access road to the station parking; and limited distances to overhead Metro-North feeder wires. The horizontal and vertical geometry of the bridge resulted in an extreme skew to the tracks with a large vertical camber in the bridge girders. During construction the outside girders deflected greater than anticipated when the concrete deck was poured, resulting in substandard vertical clearance. Vertical clearance in accordance with the AREMA Clearance Diagram, Figure 28-1-1 as amended for Connecticut State Statue was achieved under every girder on all four tracks with the exception of the extreme easterly girder under Track #3. A minimum of 22" – 2" of clearance will be provided under this girder. The attached sketch details the as-built minimum clearance under each track.

Existing Black Rock Turnpike Bridge is approximately a quarter mile east of this bridge. The Black Rock Turnpike Bridge has a minimum clearance of 18 feet 2 inches.

Significant changes to the nearly completed structure would be required. These changes would impact the access road, local road underneath the bridge, the station and operations on Metro-North. Mr. Robert W. Walker Chief Engineer for Metro-North was asked to concur with the request for a waiver for this structure. A copy of the concurrence letter is attached.

- 2) A cost estimate was developed to address raising the structure. The estimate assumes that the bridge seat, bridge bearings, the abutment back walls, expansion joints, retaining walls and the roadway and the sidewalk, would need to be adjusted. The actual jacking would need to take place in the limited 4 hour windows that Metro-North can provide to permit a 4 track outage. Significant work will be required to prepare for the jacking as well as subsequent to the jacking. A Metro-North force account will also need to be developed. The estimated total cost to raise the bridge is \$500,000.00
- 3) Typically the solution is to undercut the single track that has an under clearance issue. Unfortunately, this bridge carries over the new station platforms. The platforms are set to provide a near level access from the train floor height to the platform height. As such the track cannot be lowered.

